

# Customs Bulletin

Regulations, Rulings, Decisions, and Notices  
concerning Customs and related matters



## and Decisions

of the United States Court of Appeals for  
the Federal Circuit and the United  
States Court of International Trade

Vol. 26

---

JANUARY 22, 1992

---

No. 4

*This issue contains:*

U.S. Customs Service

T.D. 92-1 Through 92-5

THE DEPARTMENT OF THE TREASURY  
U.S. Customs Service

## NOTICE

The decisions, rulings, notices, and abstracts which are published in the CUSTOMS BULLETIN are subject to correction for typographical or other printing errors. Users may notify the U.S. Customs Service, Office of Logistics Management, Printing and Distribution Branch, Washington, D.C. 20229, of any such errors in order that corrections may be made before the bound volumes are published.

# U.S. Customs Service

## *Treasury Decisions*

(T.D. 92-1)

### FOREIGN CURRENCIES

QUARTERLY RATES OF EXCHANGE:  
JANUARY 1 THROUGH MARCH 31, 1992

The table below lists rates of exchange, in United States dollars for certain foreign currencies, which are based upon rates certified to the Secretary of the Treasury by the Federal Reserve of New York under provisions of 31 U.S.C. 5151, for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Country	Name of currency	U.S. dollars
Australia	Dollar	\$0.756500
Austria	Schilling	0.092976
Belgium	Franc	0.031797
Brazil	Cruzado	N/A
Canada	Dollar	0.868432
China, P.R.	Renminbi yuan	0.183560
Denmark	Krone	0.168124
Finland	Markka	0.240732
France	Franc	0.191516
Germany	Deutsche mark	0.654322
Hong Kong	Dollar	0.128593
India	Rupee	0.038775
Iran	Rial	N/A
Ireland	Pound	1.739000
Italy	Lira	0.000865
Japan	Yen	0.008032
Malaysia	Dollar	0.367242
Mexico	Peso	N/A
Netherlands	Guilder	0.580653
New Zealand	Dollar	0.537500
Norway	Krone	0.166003
Philippines	Peso	N/A
Portugal	Escudo	0.007432
Singapore	Dollar	0.615006
South Africa, Republic of	Rand	0.362582
Spain	Peseta	0.010295
Sri Lanka	Rupee	0.023454
Sweden	Krona	0.179276

**FOREIGN CURRENCIES—Quarterly rates of exchange: January 1 through March 31, 1992 (continued):**

Country	Name of currency	U.S. dollars
Switzerland .....	Franc .....	\$0.732601
Thailand .....	Baht (tical) .....	0.039604
United Kingdom .....	Pound .....	1.868000
Venezuela .....	Bolivar .....	N/A

(LIQ-03-01 S:NISD CIE)

Dated: January 3, 1992.

MICHAEL MITCHELL,  
Chief,  
Customs Information Exchange.

(T.D. 92-2)

**FOREIGN CURRENCIES**

**DAILY RATES FOR COUNTRIES NOT ON QUARTERLY LIST FOR DECEMBER 1991**

The Federal Reserve Bank of New York, pursuant to 31 U.S.C. 5151, has certified buying rates for the dates and foreign countries shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Holiday: Wednesday, December 25, 1991.

Greece drachma:

December 2, 1991 .....	\$0.005451
December 3, 1991 .....	.005430
December 4, 1991 .....	.005427
December 5, 1991 .....	.005508
December 6, 1991 .....	.005560
December 9, 1991 .....	.005549
December 10, 1991 .....	.005517
December 11, 1991 .....	.005526
December 12, 1991 .....	.005507
December 13, 1991 .....	.005499
December 16, 1991 .....	.005516
December 17, 1991 .....	.005536
December 18, 1991 .....	.005539
December 19, 1991 .....	.005593
December 20, 1991 .....	.005596
December 23, 1991 .....	.005739
December 24, 1991 .....	.005696
December 26, 1991 .....	.005739
December 27, 1991 .....	.005706
December 30, 1991 .....	.005695
December 31, 1991 .....	.005687

**FOREIGN CURRENCIES—Daily rates for countries not on quarterly list for  
December 1991 (continued):**

**South Korea won:**

December 2, 1991	\$.001318
December 3, 1991	.001318
December 4, 1991	.001318
December 5, 1991	.001317
December 6, 1991	.001316
December 9, 1991	.001317
December 10, 1991	.001315
December 11, 1991	.001314
December 12, 1991	.001313
December 13, 1991	.001314
December 16, 1991	.001313
December 17, 1991	.001311
December 18, 1991	.001311
December 19, 1991	.001311
December 20, 1991	.001311
December 23, 1991	.001310
December 24, 1991	.001310
December 26, 1991	.001310
December 27, 1991	.001309
December 30, 1991	.001308
December 31, 1991	.001307

**Taiwan N.T. dollar:**

December 2, 1991	\$.038797
December 3, 1991	.038722
December 4, 1991	.038794
December 5, 1991	.038805
December 6, 1991	.038801
December 9, 1991	.038831
December 10, 1991	.038833
December 11, 1991	.038831
December 12, 1991	.038835
December 13, 1991	.038835
December 16, 1991	.038831
December 17, 1991	.038835
December 18, 1991	.038835
December 19, 1991	.038835
December 20, 1991	.038835
December 23, 1991	.038835
December 24, 1991	.038831
December 26, 1991	.038835
December 27, 1991	.038831
December 30, 1991	.038834
December 31, 1991	.038839

(LIQ-03-01 S:NISD CIE)

Dated: January 3, 1992.

**MICHAEL MITCHELL,**  
Chief,  
Customs Information Exchange.

(T.D. 92-3)

## FOREIGN CURRENCIES

## VARIANCES FROM QUARTERLY RATES FOR DECEMBER 1991

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to 31 U.S.C. 5151, and reflect variances of 5 per centum or more from the quarterly rates published in Treasury Decision 91-85 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates:

Holiday: Wednesday, December 25, 1991.

## Austria schilling:

December 6, 1991	\$.090302
December 9, 1991	.090334
December 10, 1991	.089948
December 12, 1991	.089908
December 13, 1991	.089807
December 16, 1991	.090009
December 17, 1991	.090090
December 18, 1991	.090334
December 19, 1991	.091095
December 20, 1991	.092721
December 23, 1991	.093853
December 24, 1991	.093284
December 26, 1991	.093985
December 27, 1991	.093589
December 30, 1991	.093545
December 31, 1991	.093423

## Belgium franc:

December 6, 1991	\$.030864
December 9, 1991	.030817
December 10, 1991	.030760
December 11, 1991	.030798
December 12, 1991	.030703
December 13, 1991	.030684
December 16, 1991	.030760
December 17, 1991	.030817
December 18, 1991	.030883
December 19, 1991	.031133
December 20, 1991	.031616
December 23, 1991	.032020
December 24, 1991	.031827
December 26, 1991	.032123
December 27, 1991	.032000
December 30, 1991	.031928
December 31, 1991	.031959

## Denmark krone:

December 19, 1991	\$.0164745
December 20, 1991	.167392

# FOREIGN CURRENCIES—Variances from quarterly rates for December 1991 (continued):

## Denmark krone (continued):

December 23, 1991	\$0.169319
December 24, 1991	.168209
December 26, 1991	.169779
December 27, 1991	.169147
December 30, 1991	.169062
December 31, 1991	.168862

## Finland markka:

December 2, 1991	\$0.229568
December 3, 1991	.229043
December 4, 1991	.228624
December 5, 1991	.232019
December 6, 1991	.234467
December 9, 1991	.234302
December 10, 1991	.233454
December 11, 1991	.234137
December 12, 1991	.233618
December 13, 1991	.233427
December 16, 1991	.234219
December 17, 1991	.234577
December 18, 1991	.234577

## France franc:

December 6, 1991	\$0.185977
December 9, 1991	.185874
December 10, 1991	.185529
December 11, 1991	.185736
December 17, 1991	.185874
December 18, 1991	.186012
December 19, 1991	.187547
December 20, 1991	.190621
December 23, 1991	.193199
December 24, 1991	.192086
December 26, 1991	.193742
December 27, 1991	.192976
December 30, 1991	.192660
December 31, 1991	.192493

## Germany deutsche mark:

December 6, 1991	\$0.635930
December 9, 1991	.635001
December 10, 1991	.633714
December 11, 1991	.634518
December 12, 1991	.632551
December 16, 1991	.633392
December 17, 1991	.634236
December 18, 1991	.635526
December 19, 1991	.641560
December 20, 1991	.651593
December 23, 1991	.660153
December 24, 1991	.655738
December 26, 1991	.661945
December 27, 1991	.659196
December 30, 1991	.657981
December 31, 1991	.657895

# FOREIGN CURRENCIES—Variances from quarterly rates for December 1991 (continued):

## India rupee:

December 26, 1991 .....	N/A
-------------------------	-----

## Ireland pound:

December 6, 1991 .....	\$1.695000
December 9, 1991 .....	1.694500
December 10, 1991 .....	1.685000
December 11, 1991 .....	1.688500
December 12, 1991 .....	1.680600
December 13, 1991 .....	1.685500
December 16, 1991 .....	1.689000
December 17, 1991 .....	1.693500
December 18, 1991 .....	1.695300
December 19, 1991 .....	1.707700
December 20, 1991 .....	1.738400
December 23, 1991 .....	1.758000
December 24, 1991 .....	1.744000
December 26, 1991 .....	1.756000
December 27, 1991 .....	1.749000
December 30, 1991 .....	1.748800
December 31, 1991 .....	1.747000

## Italy lira:

December 19, 1991 .....	\$0.000846
December 20, 1991 .....	.000857
December 23, 1991 .....	.000871
December 24, 1991 .....	.000866
December 26, 1991 .....	.000873
December 27, 1991 .....	.000870
December 30, 1991 .....	.000869
December 31, 1991 .....	.000869

## Japan yen:

December 27, 1991 .....	\$0.007964
December 30, 1991 .....	.007952
December 31, 1991 .....	.008006

## Netherlands guilder:

December 6, 1991 .....	\$0.564207
December 9, 1991 .....	.563380
December 10, 1991 .....	.562493
December 11, 1991 .....	.563000
December 12, 1991 .....	.561230
December 16, 1991 .....	.561987
December 17, 1991 .....	.562715
December 18, 1991 .....	.563889
December 19, 1991 .....	.569184
December 20, 1991 .....	.578135
December 23, 1991 .....	.585377
December 24, 1991 .....	.581632
December 26, 1991 .....	.587061
December 27, 1991 .....	.584727
December 30, 1991 .....	.583635
December 31, 1991 .....	.583908



## FOREIGN CURRENCIES—Variances from quarterly rates for December 1991 (continued):

## Norway krone:

December 17, 1991	\$0.161681
December 18, 1991	.161786
December 19, 1991	.162681
December 20, 1991	.165344
December 23, 1991	.167308
December 24, 1991	.166251
December 26, 1991	.167673
December 27, 1991	.167140
December 30, 1991	.167112
December 31, 1991	.167084

## Portugal escudo:

December 20, 1991	\$0.007342
December 23, 1991	.007405
December 24, 1991	.007366
December 26, 1991	.007402
December 27, 1991	.007394
December 30, 1991	.007407
December 31, 1991	.007427

## South Africa, Republic of, rand:

December 26, 1991	N/A
-------------------	-----

## Spain peseta:

December 19, 1991	\$0.010068
December 20, 1991	.010209
December 23, 1991	.010365
December 24, 1991	.010317
December 26, 1991	.010384
December 27, 1991	.010343
December 30, 1991	.010331
December 31, 1991	.010419

## Sri Lanka rupee:

December 2, 1991	N/A
December 3, 1991	N/A
December 5, 1991	N/A
December 10, 1991	N/A
December 11, 1991	N/A
December 12, 1991	N/A
December 16, 1991	N/A
December 17, 1991	N/A
December 18, 1991	N/A
December 19, 1991	N/A
December 20, 1991	N/A
December 26, 1991	N/A
December 27, 1991	N/A
December 30, 1991	N/A
December 31, 1991	N/A

## Sweden krona:

December 6, 1991	\$0.173581
December 9, 1991	.173491

# FOREIGN CURRENCIES—Variances from quarterly rates for December 1991 (continued):

## Sweden krona (continued):

December 11, 1991	\$0.173340
December 12, 1991	.173265
December 16, 1991	.173445
December 17, 1991	.174125
December 18, 1991	.174414
December 19, 1991	.175316
December 20, 1991	.178253
December 23, 1991	.180571
December 24, 1991	.179469
December 26, 1991	.180995
December 27, 1991	.180083
December 30, 1991	.180050
December 31, 1991	.180018

## Switzerland franc:

December 20, 1991	\$0.734214
December 23, 1991	.742942
December 24, 1991	.738007
December 26, 1991	.743771
December 27, 1991	.740192
December 30, 1991	.737735
December 31, 1991	.734484

## Thailand baht (tical):

December 5, 1991	N/A
December 18, 1991	N/A
December 19, 1991	N/A
December 20, 1991	N/A
December 23, 1991	N/A
December 24, 1991	N/A
December 26, 1991	N/A
December 27, 1991	N/A
December 30, 1991	N/A
December 31, 1991	N/A

## United Kingdom pound:

December 20, 1991	\$1.860000
December 23, 1991	1.876500
December 24, 1991	1.870500
December 26, 1991	1.884000
December 27, 1991	1.876800
December 30, 1991	1.866500
December 31, 1991	1.866000

(LIQ-03-01 S:NISD CIE)

Dated: January 3, 1992.

MICHAEL MITCHELL,  
*Chief,*  
*Customs Information Exchange.*

## 19 CFR Part 24

(T.D. 92-4)

RIN 1515-AA87

AMENDMENT TO THE INTERIM CUSTOMS REGULATIONS  
REGARDING THE HARBOR MAINTENANCE FEE

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Interim regulation; solicitation of comments.

SUMMARY: This document amends the interim Customs Regulations relating to the harbor maintenance fee. The interim regulations, which, among other things, established procedures for collection of a port use fee for transporting cargo on specified United States waterways, were promulgated under the Water Resources Development Act of 1986. Section 6109 of the Technical and Miscellaneous Revenue Act of 1988 amended 26 U.S.C. 4462, pertaining to the harbor maintenance fee, to include an exemption from the harbor maintenance fee for cargo owned or financed by nonprofit organizations or cooperatives and certified by the Customs Service as intended for use in humanitarian or development assistance overseas. This amendment to the interim regulations sets forth the terms and applicability of the exemption.

DATES: Effective January 8, 1992. Comments must be submitted on or before March 9, 1992.

ADDRESS: Written comments (preferably in triplicate) may be submitted to and inspected at the Regulations and Disclosure Law Branch, U.S. Customs Service Headquarters, Room 2119, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Patricia Barbare, User Fee Task Force, (202-566-8648).

## SUPPLEMENTARY INFORMATION:

## BACKGROUND

The Water Resources Development Act established a Harbor Maintenance Trust Fund which contributes to the operation and maintenance of ports and harbors in the United States. This fund is supported by a harbor maintenance fee which became effective on April 1, 1987. Interim regulations concerning the harbor maintenance fee (19 CFR 24.24), were issued on March 30, 1987 (52 FR 10198). Prior to January 1, 1991, the fund was supported by a harbor maintenance fee of 0.04 percent of the value of the commercial cargo loaded or unloaded. Effective January 1, 1991, however, the harbor maintenance fee was increased to 0.125 percent of the value of the commercial cargo loaded or unloaded.

§ 11214 Omnibus Budget Reconciliation Act of 1990, Pub. L. 101-508. A change in the regulations concerning this increase was published in the Federal Register on May 9, 1991 (56 FR 21445).

Section 6109(a) of the Technical and Miscellaneous Revenue Act of 1988 (the Revenue Act), Pub. L. 100-647, amended 26 U.S.C. 4462, pertaining to the harbor maintenance fee, to provide that no tax shall be imposed on any nonprofit organization or cooperative for cargo which is owned or financed by such nonprofit organization or cooperative and which is certified by U.S. Customs as intended for use in humanitarian or development assistance overseas. The exemption was made effective as of the effective date of the fee, April 1, 1987. Accordingly, § 24.24(c) of the Customs Regulations, (19 CFR 24.24(c)), is being amended to reflect the exemption and to provide procedures for claiming cargo as exempt from the application of the harbor maintenance fee because the cargo is owned or financed by nonprofit organizations or cooperatives and is intended for use in humanitarian or development assistance overseas, including contiguous countries.

Pursuant to 26 U.S.C. 4462(h), the donating organization or cooperative is required to be a nonprofit entity. Customs has concluded that nonprofit status will be determined pursuant to the Internal Revenue Service requirements under 26 U.S.C. 501(c)(3), which provide for income taxation exemption.

Humanitarian assistance is considered to be assistance which is required for the survival of the affected population in cases of, or in preparation for, emergencies of all kinds. Such relief assistance includes, but is not limited to: food items, shelter, clothing, basic home utensil kits and small electric generators. Development assistance is considered to be aid similar to that provided pursuant to Chapter 1 of Part 1 of the 1961 Foreign Assistance Act, as amended, 22 U.S.C. 2151-1(b). Such development assistance would include, but is not limited to, aid designed to promote: agricultural productivity, reduction of infant mortality, reduction of rates of unemployment and underemployment, and an increase of literacy.

#### REFUND PROCEDURE

The Revenue Act provides that the donated cargo exemption shall be retroactive to April 1, 1987. Prior to the granting of the exemption, the Revenue Act requires Customs to certify that the cargo is intended for use in humanitarian or development assistance overseas. As a consequence, the harbor maintenance fee must be paid on donated cargo and a refund request initiated subsequent to the payment. The donated cargo exemption to the harbor maintenance fee cannot be claimed through the initial filing of a Harbor Maintenance Fee Quarterly Summary Report, Customs Form 349.

A refund of the harbor maintenance fee may be obtained by completing an Amended Quarterly Summary Report, Customs Form 350, and forwarding it to the U.S. Customs Service, Office of Inspection and Control, 1301 Constitution, NW., Washington, D.C. 20229, along with sup-

porting evidence that the entity donating the cargo is a nonprofit organization or cooperative and that the cargo was intended for humanitarian or development assistance overseas. Description of the cargo on the shipping documents and a brief summary of the intended use of the goods, if such use is not reflected in the documents, are acceptable evidence for certification purposes. Copies of the Harbor Maintenance Fee Quarterly Summary Report, Customs Form 349, should be attached for each quarter for which refund is requested. Upon completion of certification, the documents will be forwarded to the National Finance Center for refund processing.

Each nonprofit organization or cooperative claiming the exemption must maintain documentation pertaining to the exemption for a period of 5 years. The documentation must be made available for inspection by Customs in accordance with the provisions of sections 162.1a-i of the Customs Regulations (19 CFR 162.1a-i).

#### COMMENTS

Consideration will be given to any timely submitted written comments (preferably in triplicate) regarding this amendment. Submitted comments will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on normal business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations and Disclosure Law Branch, U.S. Customs Service Headquarters, Room 2119, 1301 Constitution Avenue, NW, Washington, D.C.

#### INAPPLICABILITY OF NOTICE AND DELAYED EFFECTIVE DATE PROVISIONS

Inasmuch as the statutory provision on which this amendment is based is retroactive, and confers a benefit on the public, this regulation is to be effective retroactively to April 1, 1987, and pursuant to 5 U.S.C. 553(b)(B), notice and public procedure is impracticable and unnecessary. Similarly, pursuant to 5 U.S.C. 553(d)(1), (3) a delayed effective date is not provided. However, prior to the adoption of final regulations, consideration will be given to all timely submitted written comments.

#### EXECUTIVE ORDER 12291 AND REGULATORY FLEXIBILITY ACT

Because this amendment does not meet the criteria for a "major rule" within the meaning of Executive Order 12291, Customs has not prepared a regulatory impact analysis. Inasmuch as a notice of proposed rulemaking is not required for these interim regulations, the provisions of the Regulatory Flexibility Act (5 U.S.C. § 601, *et seq.*) do not apply.

#### PAPERWORK REDUCTION ACT

The collection of information contained in the interim regulations has been approved by the Office of Management and Budget (OMB) under 1515-0184. The information required by this amendment will not increase the paperwork burden on the majority of those affected by the

overall regulation. This amendment will only affect those entities which are eligible to obtain refunds of harbor maintenance fees paid on donated cargo to be used for humanitarian purposes or organizations. The amendment will require requesting organizations to compile and submit to Customs the documentation necessary to demonstrate that the fees should be refunded. This documentation should already be in the organization's possession.

The estimated burden of the requirement in this amendment that the respondents/recordkeepers gather necessary information, prepare Customs Form 350 and attach the required documentation will be approximately 20 minutes. It is anticipated that approximately 100 respondents/recordkeepers will be required to submit this documentation annually.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, D.C. 20503, with copies to the Customs Service at the address previously specified.

#### DRAFTING INFORMATION

The principal author of this document was Michael Smith, Regulations and Disclosure Law Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

#### LIST OF SUBJECTS IN 19 CFR PART 24

Accounting, Customs duties and inspection, Imports, Taxes.

#### AMENDMENTS TO THE REGULATIONS

Accordingly, Part 24, Customs Regulations (19 CFR Part 24), is amended as set forth below:

#### PART 24 - CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

1. The authority for Part 24, Customs Regulations, continues to read as follows:

**Authority:** 5 U.S.C. 301, 19 U.S.C. 58a-58c, 66, 1202 (General Note 8, Harmonized Tariff Schedule of the United States), 1624, 31 U.S.C. 9701, unless otherwise noted.

\* \* \* \* \*

§ 24.24 also issued under 26 U.S.C. 4461, 4462;

\* \* \* \* \*

2. Section 24.24 is amended by adding paragraphs (b)(5), (b)(6), (b)(7), and (c)(8) to read as follows:

#### § 24.24 Harbor maintenance fee.

\* \* \* \* \*

(b) *Definitions.*

\* \* \* \* \*

(5) *Humanitarian assistance* is considered to be assistance which is required for the survival of the affected population in case of, or in preparation for, emergencies of all kinds. Such relief assistance would include, but is not limited to: food items, shelter, clothing, basic home utensil kits, and small electric generators.

(6) *Development assistance* is considered to be assistance similar to that provided for pursuant to Chapter 1 of Part 1 of the 1961 Foreign Assistance Act, as amended, 22 U.S.C. § 2151-1(b). Such development assistance would include, but is not limited to, aid to promote: agricultural productivity, reduction of infant mortality, reduction of rates of unemployment and underemployment, and an increase in literacy.

(7) *Non-profit* means an organization or cooperative exempt from income taxation pursuant to 26 U.S.C. 501(c)(3).

(c) *Exemptions.* The following are not subject to the fee:

\* \* \* \* \*

(8) Cargo owned or financed by nonprofit organizations or cooperatives which is certified by the U.S. Customs Service as intended for use in humanitarian or development assistance overseas, including contiguous countries.

(i) The donated cargo is required to be certified as intended for use in humanitarian or development assistance overseas by Customs. Subsequent to the payment of the fee, a request for refund should be made on an Amended Quarterly Summary Report, Customs Form 350, and forwarded to the U.S. Customs Service, Office of Inspection and Control, 1301 Constitution Avenue, NW., Washington, D.C., 20229. To permit certification, supporting evidence that the entity donating the cargo is a nonprofit organization or cooperative should be included along with supporting evidence that the cargo was intended for humanitarian or development assistance overseas. A description of the cargo listed in the shipping documents and a brief summary of the intended use of the goods, if such use is not reflected in the documents, are acceptable evidence for certification purposes. Copies of the Harbor Maintenance Fee Quarterly Summary Report, Customs Form 349, should be attached for each quarter that a refund is requested.

(ii) Each nonprofit organization or cooperative claiming the exemption under this subpart shall maintain documentation pertaining to the exemption for a period of 5 years. The documentation shall be made available for inspection by Customs in accordance with the provisions of §§ 162.1a through 162.1i of this Chapter.

\* \* \* \* \*

CAROL HALLETT,  
*Commissioner of Customs.*

Approved: December 31, 1991.

PETER K. NUNEZ,  
*Assistant Secretary of the Treasury.*

[Published in the Federal Register, January 8, 1992 (57 FR 607)]



## 19 CFR Part 101

(T.D. 92-5)

**CUSTOMS REGULATION AMENDMENT TO RELOCATE THE  
NORTH CAROLINA CUSTOMS DISTRICT HEADQUARTERS  
AT CHARLOTTE****AGENCY:** U.S. Customs Service, Department of the Treasury.**ACTION:** Final rule.

**SUMMARY:** This document changes the field organization of the Customs Service by relocating the North Carolina Customs District headquarters from Wilmington, North Carolina, to Charlotte, North Carolina. This relocation is prompted by the dramatic shift in the volume of Customs activity which has occurred within this district in recent years. Customs operational services in Wilmington, which would remain a Customs port of entry, would not be impaired. This relocation is part of Customs continuing program to obtain more efficient use of its personnel, facilities and resources, and to provide better overall service to carriers, importers, and the general public.

**EFFECTIVE DATE:** February 7, 1992.

**FOR FURTHER INFORMATION CONTACT:** Wallis W. McLaren, Office of Inspection and Control, (202-566-8157).

**SUPPLEMENTARY INFORMATION:****BACKGROUND**

As part of its continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers and the public, Customs published a notice in the Federal Register on May 15, 1991 (55 FR 22369), proposing to amend § 101.3, Customs Regulations (19 CFR 101.3), to change the Customs Service field organization by relocating the North Carolina Customs District headquarters from Wilmington, North Carolina, to Charlotte, North Carolina.

**DISCUSSION OF COMMENTS**

Fifteen comments were received in response to the Federal Register notice. Twelve commenters concurred with the proposal as presented. Two commenters supported the proposal, provided that adequate staff would still be assigned to Wilmington, and that the North Carolina District office would be independent of the Charleston, South Carolina, District office. One commenter disagreed with the proposal because of its belief that the relocation would result in continued loss of business at Wilmington.

Over the past six years, Charlotte has experienced very significant commercial growth which, in turn, has stimulated large increases in



Customs activities there. Specifically, for example, since 1985, the number of Customs entries in Charlotte has increased from over 23,000 to over 40,000. During the same period in Wilmington, the number of Customs entries decreased from over 13,000 to below 11,000. Duty collections in 1989 in Charlotte amounted to over \$70 million, while duty collections in Wilmington amounted to \$51 million. All Customs projections in various activity categories (including duty collections) strongly point to a continuation of increased Customs volume in Charlotte.

Given this workload growth in Charlotte, Customs believes that relocation of the North Carolina Customs District headquarters at Charlotte, North Carolina, will result in more economical and efficient use of its personnel and resources in carrying out the Customs mission.

The relocation, however, will affect only district management and support personnel in the North Carolina Customs District, who will simply be reassigned from Wilmington, North Carolina, to Charlotte, North Carolina. Wilmington will, of course, remain a Customs port of entry, with existing levels and hours of commercial operations, and the assignment of adequate staff, sufficient to continue meeting the needs of the Wilmington trade community. Accordingly, Customs operational services in Wilmington will not be impaired under the relocation.

Therefore, after further review of the matter, Customs has determined that it is in the public interest to relocate the headquarters of the North Carolina Customs District at Charlotte, North Carolina.

#### AUTHORITY

This change is made under the authority vested in the President by § 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by E.O. 10289, September 17, 1951 (3 CFR 1949-1953 Comp. Ch. II), and pursuant to the authority provided by Treasury Department Order No. 101-5, dated February 17, 1987 (52 FR 6282).

#### EXECUTIVE ORDER 12291 AND REGULATORY FLEXIBILITY ACT

Because this document is related to agency organization and management, it is not subject to Executive Order 12291 or the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*).

#### DRAFTING INFORMATION

The principal author of this document was Russell Berger, Regulations and Disclosure Law Branch, U.S. Customs Service. However, personnel from other offices participated in its development.

#### LIST OF SUBJECTS IN 19 CFR PART 101

Customs duties and inspection, Exports, Imports, Organization and functions (Government agencies).

#### AMENDMENTS TO THE REGULATIONS

Part 101, Customs Regulations (19 CFR Part 101) is amended as set forth below.

## PART 101 — GENERAL PROVISIONS

1. The authority citation for Part 101, Customs Regulations (19 CFR Part 101), continues to read as follows:

**Authority:** 5 U.S.C. 301; 19 U.S.C. 2, 66, 1202 (General Note 8, Harmonized Tariff Schedule of the United States), 1623, 1624, unless otherwise noted.

2. The list of Customs regions, districts and ports of entry in § 101.3(b) is amended by removing "Wilmington, N.C.", directly below "Norfolk, Va." under the column titled "Name and headquarters", and inserting in its place, "Charlotte, N.C.", and by repositioning "Charlotte (T.D. 56079)", at the head of the column titled "Ports of entry", in the Charlotte, North Carolina, District, and, in appropriate alphabetical order thereunder, "Wilmington, including townships of Northwest, Wilmington, and Cape Fear (E.O. 7761, Dec. 3, 1937, 2 FR 2679, and territory described in E.O. 10042, Mar. 10, 1949, 14 FR 1155)".

CAROL HALLETT,  
*Commissioner of Customs.*

Approved: November 22, 1991.

JOHN P. SIMPSON,

*Acting Assistant Secretary of the Treasury (Enforcement).*

[Published in the Federal Register, January 8, 1992 (57 FR 609)]

# Index

*Customs Bulletin and Decisions*  
*Vol. 26, No. 4, January 22, 1992*

## *U.S. Customs Service*

### Treasury Decisions

	T.D. No.	Page
Foreign currencies:		
Quarterly rates of exchange: January 1 through March 31, 1992 .....	92-1	1
Daily rates for countries not on quarterly list for December 1991 .....	92-2	2
Variances from quarterly rates for December 1991 .....	92-3	4
Harbor maintenance fee; amendment to interim Customs Regulations; solicitation of comments; part 24, CR amended .....	92-4	9
North Carolina Customs District Headquarters relocated from Wilmington to Charlotte; final rule; part 101, CR amended .....	92-5	14



